

Docket No.: 004956.P005X

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

In re the application of: )

Mark S. Knighton, et al. )

Serial No.: 09/927,730 )

Filed: August 9, 2001 )

For: IMAGE SYSTEM MONITORED OR )  
CONTROLLED TO ENSURE FIDELITY )  
OF FILE CAPTURED )

Examiner: Not Assigned

Art Group: 2131

**FAX RECEIVED****DEC 18 2001**Commissioner for Patents and Trademarks  
Attn: Office of Petitions**PETITIONS OFFICE****PETITION FOR RETROACTIVE FOREIGN FILING RECEIPT RETROACTIVE  
TO SEPTEMBER 13, 2001**

Dear Sir:

The above-captioned application was filed August 9, 2001 of the Continuation-In-Part of U.S. Patent Serial No. 09/660,811 filed September 13, 2000. The one year foreign filing priority deadline for filing in Taiwan expired September 13, 2001. A decision to foreign file the instant application was made on the evening of September 10, 2001. At that time, Applicants had not received a foreign filing license from the Patent Office. As a result of the events of September 11, 2001, the Patent Office was closed that day.

On the following day, Applicants attempted to reach the Patent Office to discern whether a foreign filing license had yet been granted yet and was in transit. However, presumably because of understaffing on that day, Applicants were unable to reach a customer service representative. On September 13, 2001, Applicants were

able to reach a customer service representative and determined that no foreign filing license had yet been granted. On that same day, Applicant petitioned for an expedited foreign filing license. That petition was granted on September 17, 2001.

Unfortunately, it was necessary to avoid losing rights to file the application in Taiwan on September 13, 2001. A foreign filing license had previously been granted for the parent application and at no time was the invention subject to a secrecy order. Had the Patent Office been in normal operation on September 11, 2001, the Applicants would have requested the expedited foreign filing license on that day, and in the normal course of events, the foreign filing license would have been granted on September 13, 2001. In view of the foregoing, Applicants request the Commissioner grant a foreign filing license retroactive to September 13, 2001.

The Commissioner is authorized to charge any necessary fee to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 12/18/01

By: Thomas M. Coester  
Thomas M. Coester  
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Seventh Floor  
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**CERTIFICATE OF FACSIMILE TRANSMISSION:**

I hereby certify that this correspondence is being facsimile transmitted to: Commissioner of Patents and Trademarks, Attn: Office of Petitions at (703) 308-6916 on December 18, 2001.

Susan M. Ocegueda 12/18/01  
Susan M. Ocegueda Date

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**DECLARATION OF THOMAS M. COESTER UNDER C.F.R. §1.68**

Dear Sir:

I, Thomas M. Coester, declare as follows:

1. I, Thomas M. Coester, am attorney for NextEngine, Inc. ("NextEngine") the Assignee and real party in interest for the above identified application. I am registered to practice law in the State of California and before the United States Patent and Trademark Office (Registration No. 39,637). I am a partner in the firm of Blakely, Sokoloff, Taylor & Zafman LLP. I make this Declaration in support of the accompanying Petition To Grant A Retroactive Foreign Filing License for the above-referenced patent application.

2. The subject patent application is a Continuation-In-Part of Serial No. 09/660,811 filed September 13, 2000 (the Parent Application).

3. In a meeting on the evening of September 10, 2001, NextEngine decided to file a corresponding application in Taiwan. To avoid losing rights based on the priority of the Parent Application, it was necessary to file in Taiwan by September 13, 2001.

4. As a result of the events of September 11, 2001, the Patent and Trademark Office was closed on that day. On September 12, 2001 I called Customer Service at (703) 306-5771, voicemail answered and I left a message. No return call was ever received. On September 13, 2001, I again called Customer Service at the same number, this time a Customer Service Representative directed me to the licensing branch at (703) 306-4187. A representative at the licensing branch advised me that the foreign filing license had not yet been granted for subject application.

5. Upon learning that the foreign filing license had not yet been granted, I arranged with Specialized Patent Services to hand carry a petition for an expedited foreign filing license to the Patent Office on that day.

6. An expedited foreign filing license was granted on September 17, 2001 and assigned license number 527,550.

7. At no time has the invention been subject to a secrecy order under 35 U.S.C. §181. The foreign filing license for the parent application was granted well in advance of September 13, 2001.

8. It was necessary to file corresponding application in Taiwan on September 13, 2001 to avoid losing rights in Taiwan.

9. The failure to acquire the foreign filing license with the United States Patent and Trademark Office prior to filing with the result of a confluence of events

surrounding the September 11, 2001 terrorist attack and not as a result of any deceptive intent on the part of Applicant.

10. I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful and false statements may jeopardize the validity of the application or any registration issues thereon.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 12/18/01

By: Thomas M. Coester

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Reg. No. 39,637

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Susan M. Ocegueda

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12/18/01

Date